The Employer and the Labor Union

BY

MARCUS M. MARKS

NEW YORK

Reprint from "THE INDEPENDENT," May 26, 1910
At the instance of friends who feel that the article should have a wide circulation.

331.87
M343e

The Employer and the Labor Union

By Marcus M. Marks

[Probably no man in New York City has done more work in settling industrial disputes than Mr. Marks. Tho actively interested in all good public movements, whether political, social, or ethical, he gives most of his attention to The National Civic Federation, of whose Executive Committee he is a member, and to the Roosevelt Industrial Peace Foundation.—Editor.]

IN view of existing conditions in the industrial world every effort should be made to throw light on the important question of union relations for the purpose of arriving at a better understanding between capital and labor.

The union has many men who devote all their time to the single purpose of organization, and these men become experienced, well trained and present their case intelligently and forcefully; on the other hand, the employers do not discuss their attitude to organized

29175

labor with sufficient freedom or frequency to enlighten the popular mind.

The Closed-Shop Issue.—Those who are experienced in mediation and conciliation in industrial disputes approach with diffidence those cases in which the demand for the "closed shop" is the cause of the difficulty. Strikes resulting from a demand of this nature are the most obstinate; it is almost impossible to settle them. When wages, hours of labor or other conditions of employment are at issue, it is usually possible, with calmness and skill, to bring about a speedy adjustment, because in these instances there is no basic principle involved. These cases may be discussed as practical business matters with little passion by both employers and employees, and they lend themselves readily to compromise; friendly conference and the study of economic conditions soon estab-

lish a fair basis for settlement. But when the closed shop is the issue both sides usually feel that a question of principle is involved, and the fight is apt to be bitter and to the finish.

The unions often undertake the struggle for the closed shop, even when only a very few non-union men stand in the way of complete organization. In one industry five thousand men struck because eight men were employed who would not join the union. New unions, untrained and inexperienced, are the most likely to go to extremes in such a contention. In like manner new associations of employers are the most difficult to reason with.

Classification of Shops in Their Relation to the Unions.—In studying the relations between the employer and the union it is desirable clearly to define the terms open shop and closed shop. The problem before us is not a simple one.

There are employers who are friendly to the union, those who are indifferent and those who are unfriendly. Upon the attitude of the employer to the union workingman and vice versa, as well as upon other conditions stated below, will depend the complexion of the shop. The so-called open shop and closed shop are the two main divisions—there are at least seven distinct subdivisions in the classification of shops with respect to union relations.

First.—There is the anti-union shop. Here the employer is emphatically and frankly opposed to the organization of his workingmen; this employer has either suffered from strikes or fears their possibility; he will not knowingly employ a union man and will discharge an employee who is discovered to be a member of the union; he may even go so far as to require each employee, before his

engagement, to sign a card to the effect that he is not a member of any union and will not join one while in his employ. This shop is frequently confounded with the open shop. But it is not open; it is closed against union men, just as the shop ordinarily termed closed shop is closed against non-union employees.

Second.—There is the non-union shop, where, without any animus against unions on the part of the employer, there happen to be no union men employed. Such a shop may be situated in a locality where workingmen are not organized. This shop, while practically non-union, is technically an open shop, there being no discrimination against the union.

Third.—We have the typical open shop, in which union and non-union men work freely side by side, without discrimination. The employer may be indifferent, neu-

tral or friendly; he does not actively recognize the union affiliation of his employees, neither is the union officially in evidence, as there is no active shop chairman representing the union employees.

Fourth.—There is the open shop, in which union and non-union men work side by side with the knowledge and consent both of the employer and of the union; there is either a written agreement or an understanding between this employer and his union workingmen establishing the open-shop arrangement officially; there may be a shop chairman selected by the union, but his authority is limited according to the number of union employees. We have in this class the first stage of union recognition.

Fifth.—There is the union shop in which all workingmen are members of the union, but without any agreement or official sanction from the employer. The shop organiza-

tion by its own propaganda keeps up this condition of unionism. The non-recognition of the union by the employer technically differentiates this from the typical closed shop. The employer in this "union shop" may possibly not even be aware of the fact that all his men are members of the union until a strike or other cause reveals this condition. This subdivision represents a temporary condition which soon develops into a closed or an open shop.

Sixth.—There is the closed shop with the open union. In this case the employer has an agreement with the union that only members in good standing may work in his shop, with the stipulation, however, that he retains the open market to secure help and may employ non-union men provided they join the union on beginning work, the union agreeing to accept these men at once as members.

Seventh.—There is the closed shop with the closed union. This is the most complete form of union recognition. Only union men in good standing may be employed. If men lose their good standing in the union they must be discharged. The employer may not go into the open market to seek labor, but must apply to the union.

The union demands the closed shop for the purpose of maintaining the advantages gained as the result of a strike or of peaceful negotiations, which advantages the union fears may be lost unless the complete control of the shop is within its grasp. To this end the union offers to co-operate with the employer by influencing its members to live up to their contracts.

The employer, on the other hand, rarely establishes the closed shop voluntarily. His fear is that he will lose control of his business and place his capital at the risk

of irresponsible parties who are not fully posted on general trade conditions. He also objects to the visits of the walking delegates with their occasional arbitrary show of power.

Attitude of the Employer Toward Union Regulations.—All employers, irrespective of their attitude to the union, agree in opposing the policy of some of the unions with respect to the following:

1. *Restriction of output and limitation of machinery.*

When a man does not do his best he wrongs his employers as well as himself; more than this, he is apt to dwarf his latent faculties and cripple his future prospects.

Our American workingman, to keep his supremacy, must bring out the best that is in him and not degenerate into a hum-drum average. The advanced unions generally recognize this principle.

The employer, to keep his product successfully in the market, is compelled by competition to introduce new methods and new machines that bring about economy of manufacture. Broadly speaking, labor-saving machinery does not reduce, but increases, the ultimate demand for labor—the hardship, if any, is but temporary. Whoever opposes the introduction of improved machinery opposes progress.

2. *Limitation of Apprentices.*

All employers disapprove undue limitation of apprentices, and feel that every youth desiring to learn a trade should have the opportunity to do so. The employers have no faith in the policy that restricts the number of apprentices to a small percentage for fear of bringing burdens on the trade. They feel that every mechanic is a valuable asset, a producer, a consumer and an important member of society.

3. *Uniform wage.*

The uniform wage is generally disapproved by employers, and many wise union leaders now condemn it. It is apparent that no two men have equal ability, and there should be opportunity for the bright, quick man to forge ahead. Nor should the unfortunate, dull workingman be forced out of employment by a general wage scale which the employer cannot afford to pay this slow worker; for the minimum wage, when established by the union, is usually pushed up to a point which forces the employer to discharge the under-average workingman. The introduction of the uniform wage may thus make the employer a party to working a cruel hardship on the wage-earner.

4. *Secondary boycott.*

The secondary boycott is universally and strongly condemned

by employers and by the public. While many excuse those who refrain from patronizing a man whose methods of business are unjust and oppressive (this is called the primary boycott), the punishment of a third party because he refuses to join in such a boycott (which is termed the secondary boycott) is a coercive measure which finds no sufficient apology.

5. *The sympathetic strike.*

When workingmen, particularly those who are under contract with the employers, stop work, not because of any differences of their own, but in sympathy with striking union workingmen, perhaps in an entirely different industry, such action is unanimously condemned by employers and by the public. While the spirit of sacrifice, engendered by a fellow feeling with those in the same general cause of labor, is truly to be admired, its method of expression by the sympathetic

striker is in every way evil— it loses the confidence and good will of employers who are made to suffer for the acts of others. It weakens the cause of collective bargaining, and thus undermines the usefulness of the union. The sympathy exprest in the sympathetic strike might more wisely show itself in financial and moral support on the part of the union workers remaining in their places rather than by actual cessation of labor, which leaves more unemployed to be assisted and less wages to be used in such assistance.

6. *Compensation for accidents.*

Employers agree that the present system of liability insurance is unjust and ineffective. Many favor the new thought of prompt and direct compensation for accidents; but if they are to be responsible for injuries resulting from negligence of employees they

will insist on full liberty in the selection and discharge of help, which liberty is not allowed in the closed shop.

Conciliation.

Differences between labor and capital can best be adjusted by round-table conferences, which are educational and conciliatory. The offices of disinterested third parties of experience are often very valuable.

The round table is selected because, figuratively, it is democratic, having no head and no foot, and because there are no sharp corners between you and your neighbor.

The labor question is one which concerns the relations between man and man and should be approached in a fraternal spirit. There should be no patting on the shoulder, no paternalism, no charity. The workingman, as a rule, desires no

favors. He feels that he has a right to a light workroom, with proper air and sanitation; to a fair wage, which will permit him not only to live, but to enjoy life.

Every one should approach the labor question carefully and intelligently. No one should ever take sides on impulse, but only after full and fair investigation of all the conditions. Justice should be the aim. There are good unions and bad unions; there are good corporations and firms and bad ones; each should be judged according to its merits. Every effort toward organization for a good purpose should be encouraged and then the association be judged by its acts. Prejudice should be eliminated; judging beforehand, judging without knowledge, is immoral and dangerous. Encouragement of either side in a dispute without full knowledge may bring great hardship even with friendli-

est intent. The controlling power should be the spirit of justice.

Investigation Board.

How are we to get the facts to aid us in arriving at a proper judgment in cases of labor difficulties? There is no adequate way at present. It seems to me that the State should establish machinery for the fair investigation of important industrial disputes, particularly in public utilities, either before or immediately after a strike. I have not worked out the details of a plan, but suggest, tentatively, that it might be well, on request of either party, that the State ask the employers to select two men, the employees two and these four to select a fifth and sixth to complete the board of investigation. If either side decline to select its two representatives on the board within a reasonable time, then the State might appoint two chosen from the same industrial class to repre-

sent that side. The reason that six men are here suggested, instead of five, is that two impartial judges will reinforce each other and hold a stronger balance than one would. Not being an arbitration, a single deciding vote is not necessary. The report of this board should be promptly made public; then public sentiment will assert itself; the strike will have intelligent support or disapproval and justice will more readily be secured. I would not at this time go as far as the Canadian act does, nor as the Massachusetts act contemplates, to prevent strikes and lockouts; it might be well to omit any compulsory features except those of fair investigation and publicity.

A voluntary board, selected in each case from the particular industry involved in the trouble, will be better posted in the special situation than a standing State board, and, furthermore, will be more in-

3 0112 061730831

fluential with the public, for it would be possible to get men of the highest standing in the community to serve in single cases, men whose services could not be secured on a permanent State board. Let us hope for the early establishment of such a court of investigation in every State of the Union.